FARAD CONTINUATION SHEET.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

NAGPUR BENCH : NAGPUR.

WRIT PETITION NO.206/2005

Office Notes, office Memoranda of Coram appearances, Court's orders or directions and Registrar's order.	Court's or Judge's order

CORAM: B.P. DHARMADHIKARI, J.
DATED : 16.01.2006.

1. The petitioner-husband has challenged the order dated 22.9.2000 by which the 2nd Joint Civil Judge (Senior Division), Wardha has granted interim maintenance of Rs.1,000/- per month to respondent wife and Rs.2,000/- as litigation charges. It appears that this order was earlier challenged in a Civil Revision before this Court which came to be disposed of as not maintainable and thereafter present writ petition has

been filed.

2. I have heard Advocate Shri R.M. Ahirrao for petitioner-husband and Advocate Shri Morkute holding for Advocate Shri P.G.. Kheole for respondent. Looking to the nature of the controversy, Rule is made returnable forthwith and matter is heard finally by consent of parties.

3. Only grievance of Advocate Shri Ahirrao is that when the issue was considered by the Court below, the husband could not produce any document to show that respondent was gainfully employed. He invited attention to the salary certificate dated 28.3.2001 produced on record at Annexure-F. The said certificate is issued by Sant Gadge Baba Vidalaya And Late Bapuraoji Deshmukh Higher Secondary School, Manjarkhed, Taq. Chandur Railway, District Amravati, and according to it the present respondent-wife was paid salary of Rs.6,646/- each for the month of December, 2000 and January, 2001. He contends that the respondent is gainfully

employed while petitioner is working in private unaided school and is not getting full salary. Advocate Shri Murkute contends that certificate produced is not genuine. He further contends that the salary shown in the certificate is subsequent to the date of impugned order. According to him, therefore, the certificate is not relevant and the matter need not be interfered with in writ petition.

4. The question whether certificate is genuine or not cannot be determined for the first time in the present writ petition. As per certificate, the respondent-wife is gainfully employed and the said document is not considered by the Court below. The Court below is duty bound to consider it and to find out its effect on the impugned order.

5. The order dated 22.9.2000 is maintained as it is. However, it is clarified that the same shall not come in the way of Court below while considering the genuineness and relevance of the salary certificate dated

28.03.2001, in so far as the issue of granting maintenance before it is concerned. If it is satisfied that the certificate is genuine and has got impact on determination of amount of interim maintenance by it, it will accordingly modify its order dated 22.9.2000.

6. In view of this, no other orders are required to be passed in writ petition. Writ Petition is accordingly disposed of. The Court below shall pass fresh order after considering the said salary certificate as early as possible and in any case within a period of two months from the date of communication of this order to it.

7. The parties are at liberty to produce appropriate evidence including the evidence of the School to show the correctness of said salary certificate.

JUDGE

ssw